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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BRADLEY JOHNSON

Atty. Ref.: 4626-38; Confirmation No. 7552

Appl. No. 09/876,546

TC/A.U. 3714

Filed: June 6, 2001

Examiner: Julie K. Brockett

For: RANDOMLY AWARDED PROGRESSIVE JACKPOTS

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May 21, 2009

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office Action dated April 21, 2009, Applicant thanks the Examiner for confirming that the claims are not obvious variants of one another. However, Applicant is concerned as to whether a "serious burden" truly would be imposed on the Examiner if all claims were to be examined. For example, Applicant is uncertain how a gaming machine of claim 63 implementing the gaming method of claim 1 could possibly be used in a materially different process than that of claim 1, or how the gaming method of claim 1 could be used with a materially different product. For similar reasons, it is highly unlikely that the art relevant to the claims presented in Group I would not also be applicable to the claims presented in Group II -- e.g., since Group II simply involves an apparatus practicing the method of Group I. Furthermore, the Examiner has

not yet alleged or shown how the inventions have acquired separate statuses in the art due to any allegedly divergent subject matter. Still further, all claims presently are fully compliant with 35 U.S.C. §§ 101 and 112, first paragraph. Thus, the inventions of alleged Groups I and II certainly will not raise different non-prior art issues.

Similar comments apply with respect to the identification of the alleged species and sub-species. For example, Applicant is unclear how a search for a gaming method performed live would be any different from a search for an automated gaming method (even though such techniques are non-obvious over one another). Similarly, Applicant is unclear how a search for an electromechanical slot machine implementing a particular gaming method would be any different from a search for an automated or virtual slot machine with virtual reels (again, even though such techniques are non-obvious over one another).

It is respectfully noted that all of the claims previously have been examined over the course of the five (5) previous Office Actions. Furthermore, inasmuch as Applicant's various representatives have participated in two separate interviews and filed two separate Requests for Continued Examinations (RCEs), it would seem somewhat late to issue a Requirement for Restriction at this time -- i.e., some eight (8) years after the filing of this application.

For at least the foregoing reasons, Applicant respectfully submits that all claims should be examined together.

In the extremely unlikely event that the Restriction Requirement is maintained with respect to the alleged Groups, Applicant provisionally elects the invention of Group

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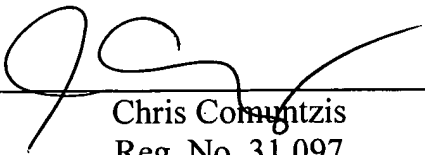
I (Claims 1-27 and 51-62) for further substantive examination. Furthermore, in the extremely unlikely event that the Restriction Requirement is maintained with respect to the alleged Species and Sub-species, Applicant provisionally elects the invention of Species A-1, Sub-Species B-1, and D-1. To the extent that the Restriction Requirement is understood, Applicant believes that claims 1-2, 4-14, 16-17, and 22-26 read on Applicant's provisional elections. It is believed that at least claims 1, 4-12, 14, 22 are generic to the species and sub-species. It is respectfully requested that the non-elected claims be retained for use with a possible divisional application.

Should the Examiner have any questions regarding the foregoing, the Examiner is requested to contact Applicant's (new) undersigned representative at the telephone number listed below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


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